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C O N F I D E N T I A L SECTION 01 OF 02 YEREVAN 000239

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KDEM](#) [KJUS](#) [COE](#) [AM](#)  
SUBJECT: AUTHORITIES DROP SOME CHARGES AGAINST LEADING  
OPPOSITION DEFENDANTS AFTER COE-PROMPTED CRIMINAL CODE  
CHANGES

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Classified By: CDA Joseph Pennington, reasons 1.4 (b,d)

¶1. (C) SUMMARY: Revised Criminal Code articles -- redrafted at the behest of PACE co-rapporteurs -- went into effect March 24. At the April 1 session of the "Trial of Seven," prosecutors withdrew the Article 300 charge of "usurpation of state power" while leaving in place slightly-reduced charges of "inciting mass disorders." The judge also split up the "Trial of Seven" case into four separate trial cases for future hearings. If the PACE rapporteurs had believed that their negotiated bargain with the GOAM would lead immediately to the release of the seven, so far they have achieved significantly less than that. The PACE Monitoring Group met in Valencia, Spain, March 30, and was reportedly unimpressed according to press reports, but we have no further details.  
END SUMMARY

¶2. (C) CHARGES REDUCED: The revised Criminal Code articles 225 and 300 were enacted by the National Assembly March 18, signed by President Sargisan on March 20, and entered into force on March 24. As a result of these changes, prosecutors entered a motion to modify the charges against the "Trial of Seven" prominent opposition defendants during the latest hearing April 1, and the judge approved the motion. Prosecutors dropped the article 300 charge of "usurpation of state power" (in other words, staging a coup). The Article 300 charge had provided for imprisonment from 10-15 years. Authorities modified the article 225 charges to drop the aggravating factor of "accompanied by murder," reducing the potential sentence from that charge from 6-to-12 years in prison to just 4-to-10 years. A significant implication of this change is that the defendants are no longer accused of criminal culpability for the ten deaths. (COMMENT: One serious objection the PACE rapporteurs had had was that authorities had effectively charged the Trial of Seven defendants with the murder of those ten people, despite the fact that there was no evidence to tie them directly to those deaths and there is evidence that at least some of those deaths were at the hands of police officers. END COMMENT)

¶3. (C) QUIRKS OF ARMENIAN JURISPRUDENCE: Armenian law does not provide for consecutive sentencing; all sentences are served concurrently. Therefore, the net result of yesterday's modifications to the criminal charges is that the maximum sentence that can be imposed has been reduced from 15 years to 10 years. Judicial watchers report the typical pattern of sentencing in Armenian courts results in sentences being notched downward a bit. For example, if the maximum sentence for a given charge is 10 years, prosecutors at trial will most often ask the judge to impose an eight-year sentence. The trial judge will then often show his own beneficence by actually imposing a six-year sentence, and the appeals court will likely notch that back yet further to a four-year sentence. (COMMENT: It is impossible for us to predict whether this pattern will prevail with these

highly-charged cases. Moreover, there have been hints -- such as Parliament Speaker Hovik Abrahamian's words to the Ambassador reftel -- that once the seven have been sentenced, the president will be inclined to offer pardons. END COMMENT)

14. (C) "SEVEN" CASE BROKEN UP: The judge yesterday also subdivided the "Trial of Seven" case into six different cases. The case of Alexander Arzumanian (former foreign minister) and Suren Sirunian will continue to proceed as a single joint case. Each of the others will be tried individually. Sasun Mikaelian's case has been transferred to the Abovian district court (a town just outside Yerevan city limits), as this was where his alleged illegal weapon on his weapons possession charge was found. Shant Harutunian had earlier had his case separated from the others while he undergoes medical and psychiatric screening. (NOTE: We have meanwhile heard that Harutunian is in good mental and physical health, according to independent human rights monitors who have spoken with both Harutunian and his doctors. END NOTE)

15. (C) COMMENT: It was never clear why authorities had packaged these seven defendants together, with four of the highest-profile opposition defendants, combined with three much more obscure opposition-linked figures. Similarly, it is unclear why they have chosen to break this cohort up again. Our guess is that authorities have re-calculated the politics of the matter, and have concluded that the "Trial of Seven" had become too much of a human rights cause celebre both domestically and abroad. Authorities probably hope that the various cases will now be less of a focus for opposition activism, public rallies, and international criticism. The seven defendants were probably originally conjoined into a single case to support an invented GOAM narrative that they represented the central cadre of a plot to depose the

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government. Interestingly, the other most prominent criminal defendant in connection with March 1-2, 2008, former Deputy Prosecutor General Gagik Jhangirian, was never folded into the Trial of Seven case.

16. (C) COMMENT CONTINUED: These latest developments represent incremental improvements to the situation regarding these opposition defendants, but are not of themselves transformative. It is an improvement to drop the article 300 charges; given how badly and vaguely that article had been written, authorities had been free to define that crime virtually as they pleased. We never expected the political problem of these opposition detainees to be fully solved by legal maneuvering. These actions seem like modest steps to edge the GOAM closer toward a face-saving political solution that may be yet to come, and are also intended to satisfy PACE enough to avoid Armenia being embarrassed by Strasbourg.

PENNINGTON